

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ROBERT A. BRANDON
and
JOY BRANDON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1939

Decision No. CU -6792

Counsel for claimant:

H.S. and H L Wood
and
Baker and McKenzie
By Eugene A. Theroux, Esq.

FINAL DECISION

On September 1, 1971 the Commission issued a Proposed Decision on this claim certifying losses to each claimant in the amount of \$6,547.50. The claim was based on the loss of stock interests in Cuban enterprises and other personalty. The Proposed Decision denied for failure of proof a portion of the claim based on the loss of 30 shares of stock of Tractores.

Claimants objected and thereafter evidence was received in support of this portion of the claim. Based on the entire record including the new evidence the Commission now finds that claimants owned 30 shares of stock of Tractores.

In our decision entitled the Claim of Dorothy Kelly, Individually and as Administratrix of the Estate of H. A. Kane, Deceased (Claim No. CU-1936 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on October 24, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$1,360.8221.

In view of the foregoing the Commission finds that claimants suffered a loss of \$40,824.66 for their interest in the 30 shares of Tractores, within the meaning of Title V of the Act.

Claimants' total losses are now summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>ROBERT A. BRANDON</u>	<u>JOY BRANDON</u>
Tractores	October 24, 1960	\$20,412.33	\$20,412.33
Furnishings	December 6, 1961	<u>6,547.50</u>	<u>6,547.50</u>
		\$26,959.83	\$26,959.83

The Commission reaffirms the inclusion of interest, and in the instant case it is now ordered as follows:

	<u>FROM</u>	<u>ON</u>
ROBERT A. BRANDON	October 24, 1960	\$20,412.33
	December 6, 1961	<u>6,547.50</u>
		\$26,959.83
JOY BRANDON	October 24, 1960	\$20,412.33
	December 6, 1961	<u>6,547.50</u>
		\$26,959.83

Accordingly, the Certifications of Loss in the Proposed Decision is set aside, the following Certifications of Loss will be entered, and in all other respects, the Proposed Decision as amended herein, is affirmed.

CERTIFICATIONS OF LOSS

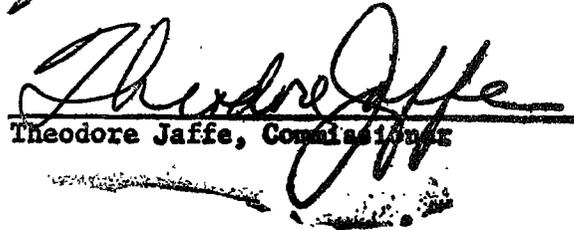
The Commission certifies that ROBERT A. BRANDON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Six Thousand Nine Hundred Fifty-Nine Dollars and Eighty-Three Cents (\$26,959.83) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that JOY BRANDON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Six Thousand Nine Hundred Fifty-Nine Dollars and Eighty-Three Cents (\$26,959.83) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

OCT 20 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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Counsel for claimants:

H. S. and H. L. Wood

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by ROBERT A. BRANDON and JOY BRANDON for \$93,364.64 based upon the asserted ownership and loss of stock interest in a Cuban enterprise and household furnishings. Claimants have been nationals of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d)(1970).)

This claim is based on the loss of a stock interest in Agencia de Tractores y Equipos, S.A. (Tractores), and on household furnishings.

Tractores

Claimants have submitted a copy of a certificate prepared by an attorney and secretary of Tractores dated June 30, 1960 in which he states that the Registry Book of Stock Certificates disclosed that claimant ROBERT A. BRANDON owned 30 shares represented by certificate #73. Claimants certify that they have been unable to locate the stock certificate and believe it was left in Cuba with their other papers and record when they fled Cuba about October 5, 1960.

It is noted that in the aforementioned certificate of June 30, 1960 it is stated that the Registry Book reflects ownership of 105 shares each by Herman A. Kane, and Terry Kane and 30 shares each by L. T. Kane and Anna Kane. The record, however, includes a copy of an agreement dated December 19, 1966 wherein these shares were redistributed. Although this agreement does not affect the ownership of the 30 shares asserted by claimants, in the absence of the certificate or other supporting evidence to indicate their continued actual share ownership, the Commission is constrained to and does deny this portion of the claim for lack of sufficient proof.

Household Furnishings

Based on the evidence of record including claimants' affidavit and an affidavit by four individuals personally familiar with the facts and listing the items of household furnishings and their estimated value. The Commission

finds that pursuant to the Community Property Law of Cuba claimants jointly owned the household furnishings subject of this claim.

Claimants state that they left Cuba about October 6, 1960. In the absence of evidence to the contrary the Commission finds that this personalty was taken by the Government of Cuba on December 6, 1961 pursuant to its Law 989 published on that date which effected confiscation of all assets of persons who had left the country.

Based on the entire record including the aforementioned affidavits the Commission finds that the value of the household furnishings was \$13,095.00 on the date of loss, and concludes that claimants suffered a loss in this amount within the meaning of the Act.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATIONS OF LOSS

The Commission certifies that ROBERT A. BRANDON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Five Hundred Forty-Seven Dollars and Fifty Cents (\$6,547.50) with interest at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that JOY BRANDON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Five Hundred Forty-Seven Dollars and Fifty Cents (\$6,547.50) with interest at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

SFP 1 1971


Lyde S. Carlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)